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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Gene Edward Scott, II,

10 Plaintiff,

11 v.

12 County of Maricopa, et al.,

13 Defendants.
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No. CV-22-00607-PHX-DLR

ORDER

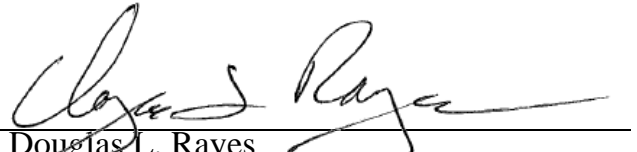
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16 Before the Court is Plaintiff's application for a fee waiver (Doc. 2), which is granted.
17 The Court must dismiss a case proceeding on a fee waiver if "at any time the court
18 determines" that the "allegation of poverty is untrue" or that the "action or appeal" is
19 "frivolous or malicious," "fails to state a claim on which relief may be granted," or "seeks
20 monetary relief against a defendant who is immune from such relief." 28 U.S.C. §
21 1915(e)(2); *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000). Here, Plaintiff has sued
22 Maricopa County and the State of Tennessee under 42 U.S.C. § 1983 for allegedly violating
23 his constitutional rights. Section 1983 creates a cause of action against persons who
24 deprive others of constitutional rights under color of state law. "Persons' liable for
25 damages under Section 1983 include state employees sued in their individual capacities.
26 States and their agencies and state employees sued in their official capacities are not proper
27 defendants under Section 1983 and therefore cannot be sued under the statute." *Marcotte*
28 *v. Monroe Corrections Complex*, 394 F.Supp.2d 1289, 1294 (W.D. Wash. 2005) (internal

1 citations omitted). Because Plaintiff has not sued a person within the meaning of § 1983,
2 his complaint must be dismissed for failure to state a claim.

3 **IT IS ORDERED** that Plaintiff's application for a fee waiver (Doc. 2) is
4 **GRANTED.**

5 **IT IS FURTHER ORDERED** that Plaintiff's complaint (Doc. 1) is **DISMISSED**
6 for failure to state a claim to relief. If he so chooses, Plaintiff may file an amended
7 complaint that cures these deficiencies by no later than **May 18, 2022**. No amended
8 complaint may be served, however, until it has been screened by the Court. If Plaintiff
9 fails to file an amended complaint within the timeframe specified herein, the Clerk is
10 directed to terminate this case without further order of the Court.

11 Dated this 19th day of April, 2022.

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16 Douglas L. Rayes
17 United States District Judge
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